

Idaho Developments: Water Rights Enforcement Compliance & Monitoring

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Western States Engineers Workshop

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Idaho Water Rights Enforcement Statutes

Section 42-351: Illegal diversion or use of water

- 1) Unlawful to divert or use water from a surface or ground water source without a valid water right, or to divert or use water not in conformance with a valid water right”**

Idaho Water Rights Enforcement Statutes

Section 42-351:

- 2) “...unlawful to divert or use water in substantial violation of ...any rule, permit, condition of approval or order issued pursuant to this title that is related to the diversion or use of water”

Idaho Water Rights Enforcement Statutes

Section 42-351:

- 3) “Upon investigation..., the director shall have the discretion to issue a written notice of violation in accordance with the provisions of Section 42-1701B”

Idaho Water Rights Enforcement Statutes

Section 42-1701B: Enforcement procedure (water rights & other violations)

- 1) Notice of Violation**
- 2) Response**
- 3) Compliance conference & consent order**
- 4) Civil enforcement action**
- 5) Penalties**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Notice of Violation

- ✓ Identify violation & relative law, rule, or condition of approval violated
- ✓ State remedy (including cease & desist), restoration, mitigation measures, and/or civil penalty
- ✓ Provide opportunity for conference

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Response

- ✓ Recipient provided 14 days to respond for compliance conference
- ✓ Failure to respond may result in civil enforcement action

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Compliance Conference & Consent Order

- ✓ Negotiation Process
- ✓ Identify remedy and assure compliance
- ✓ Consent order & agreement
 - specify remedy terms and time lines
 - payment of civil penalties

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil Enforcement

**Action may be initiated by AG in county
district court**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil Penalties in civil enforcement action

**\$10,000 per violation or \$150 per day for a
continuing violation (whichever is greater)**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil penalties for violation of Sec 42-351

1) Irrigation Uses

**\$300 annually for each acre irrigated
(in whole or in part)**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil penalties for violation of Sec 42-351

2) Non-irrigation uses

- \$50 per one-tenth cfs diverted per day
- \$50 per two tenths (0.2) of an acre-foot diverted to storage
- Maximum of \$50,000 per year

Water Rights Enforcement & Compliance

Water Distribution Section Activity*

Year^	No. of Investigations	NOVs Issued
2008	45	8
2007	55	18
2006	25	16
2005	12	2
2004	27	14

* Initiated or assisted by State Office Water Dist. Sec Staff

^ Calendar Year

Idaho Water Rights Enforcement & Compliance

Water Rights Enforcement Account

- **Currently \$66,415 in enforcement account**
- **Amt. Collected FY 2008 : \$46,000**
- **Largest Collected (2004-08): \$10,000**
- **Normal Amt Collected: \$300 to \$4,000**

Water Rights Enforcement Detection & Monitoring

- **Written or verbal complaints**
- **Related IDWR activities**
- **Water Districts**
- **Satellite Imagery**
- **Water Measurement**

Idaho Water Rights Monitoring

Use of Satellite Imagery

- Obtained annually for some areas
- Overlay water right POU shape files
- Field visit by watermasters or IDWR staff
- NOV process may be initiated
 - send Pending NOV first

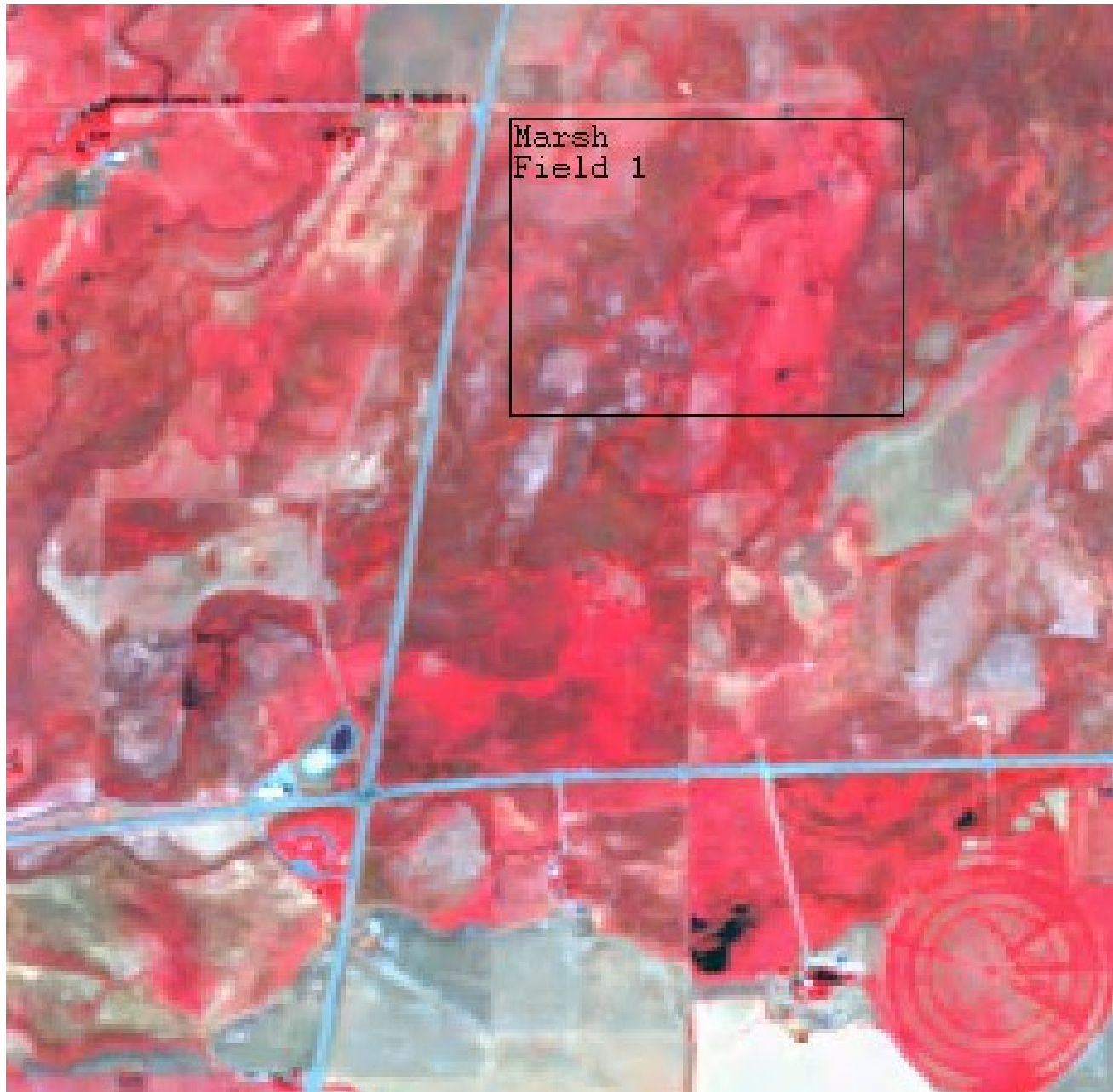
Outline of Method to Identify Areas Irrigated Without a Water Right

- 1. Query existing GIS records to determine areas that can be irrigated and create a new GIS record of these areas.**
- 2. Use remote sensing techniques (e.g. training infrared imagery) to identify irrigated areas.**
- 3. Combine the areas identified as irrigated with the GIS layer showing which parcels can be irrigated and create a record of areas that fall outside.**

Outline of Method to Identify Areas Irrigated Without a Water Right

- 4. Combine this record with tax lot information to create a list of potential violations/violators.**
- 5. Eliminate areas that might fall outside of the method's capabilities to accurately identify and quantify (e.g. too small or riparian areas).**
- 6. Use information gathered from potential violators, aerial photography, and field verification to build a final list of violations.**

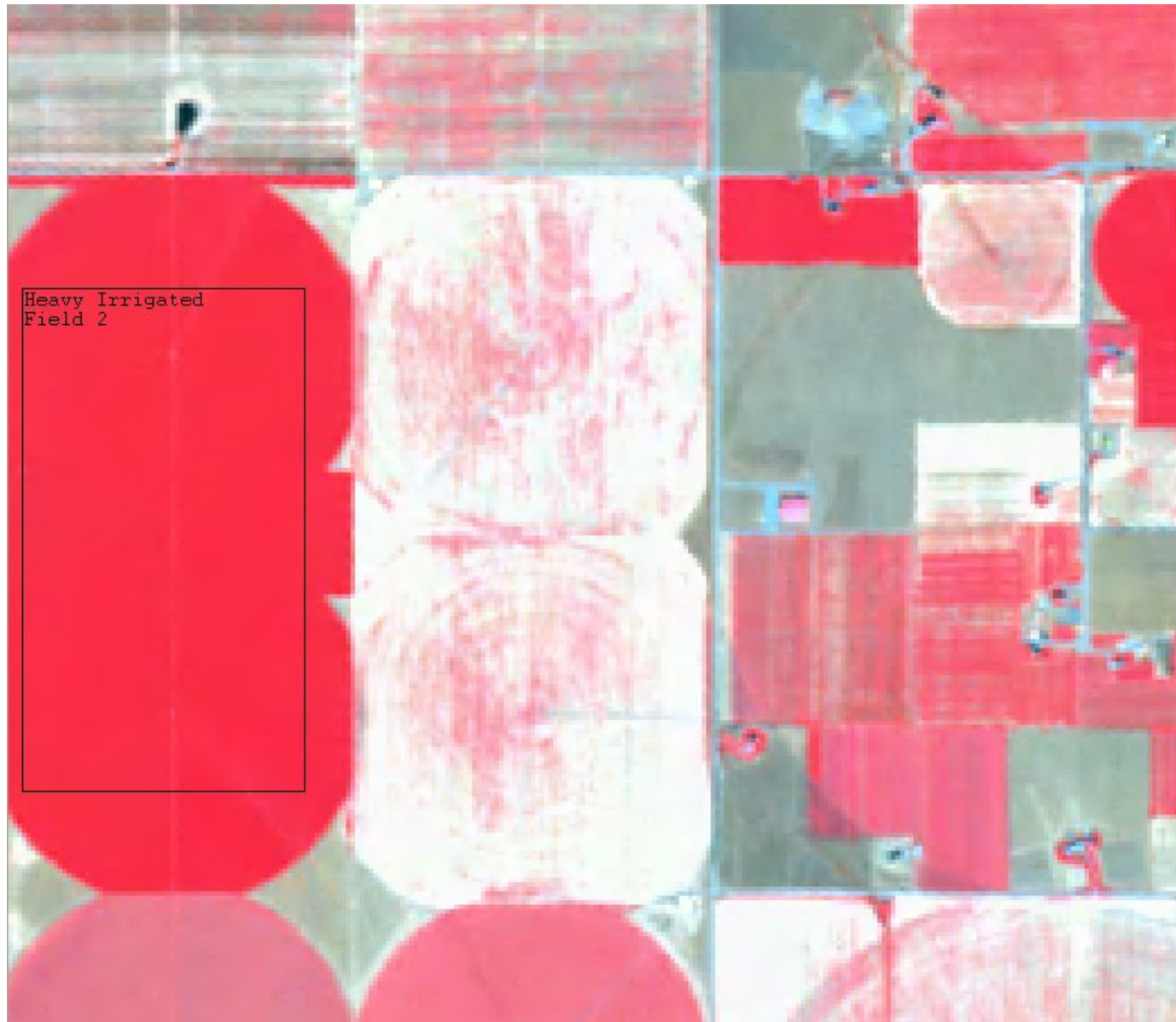
Training the NIR Imagery



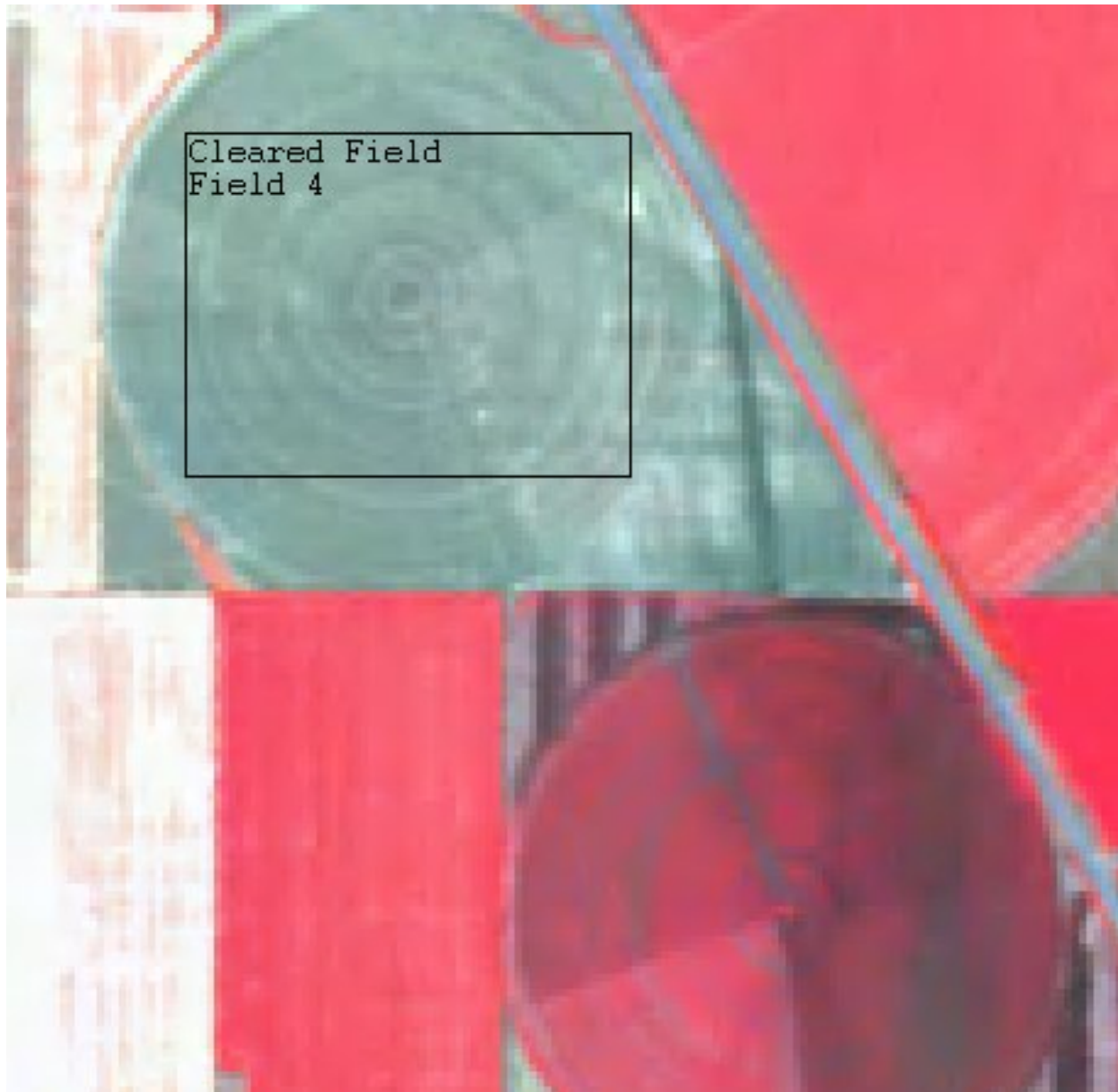
Training the NIR Imagery



Training the NIR Imagery



Training the NIR Imagery

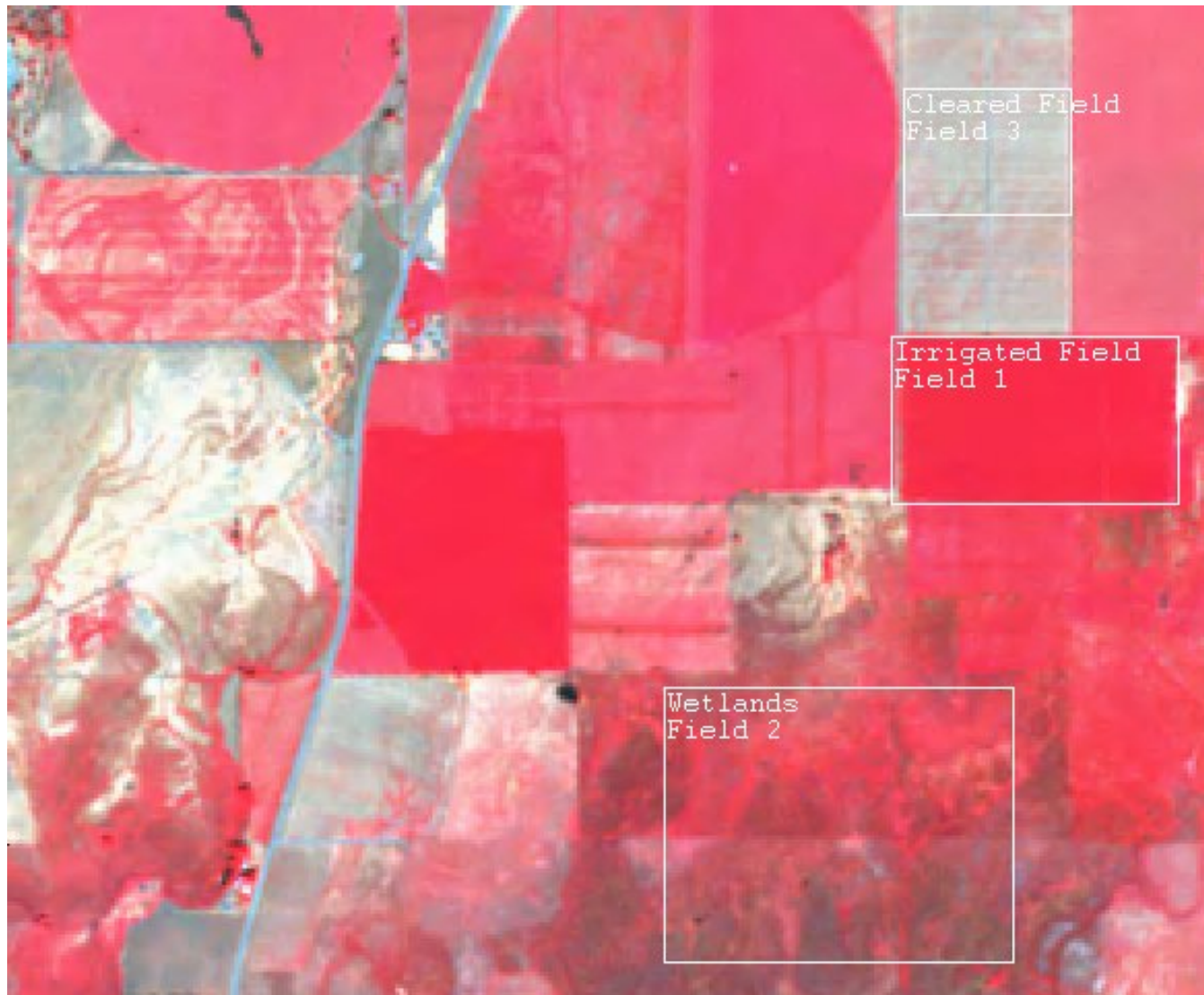


Unprocessed SPOT 2007 Image

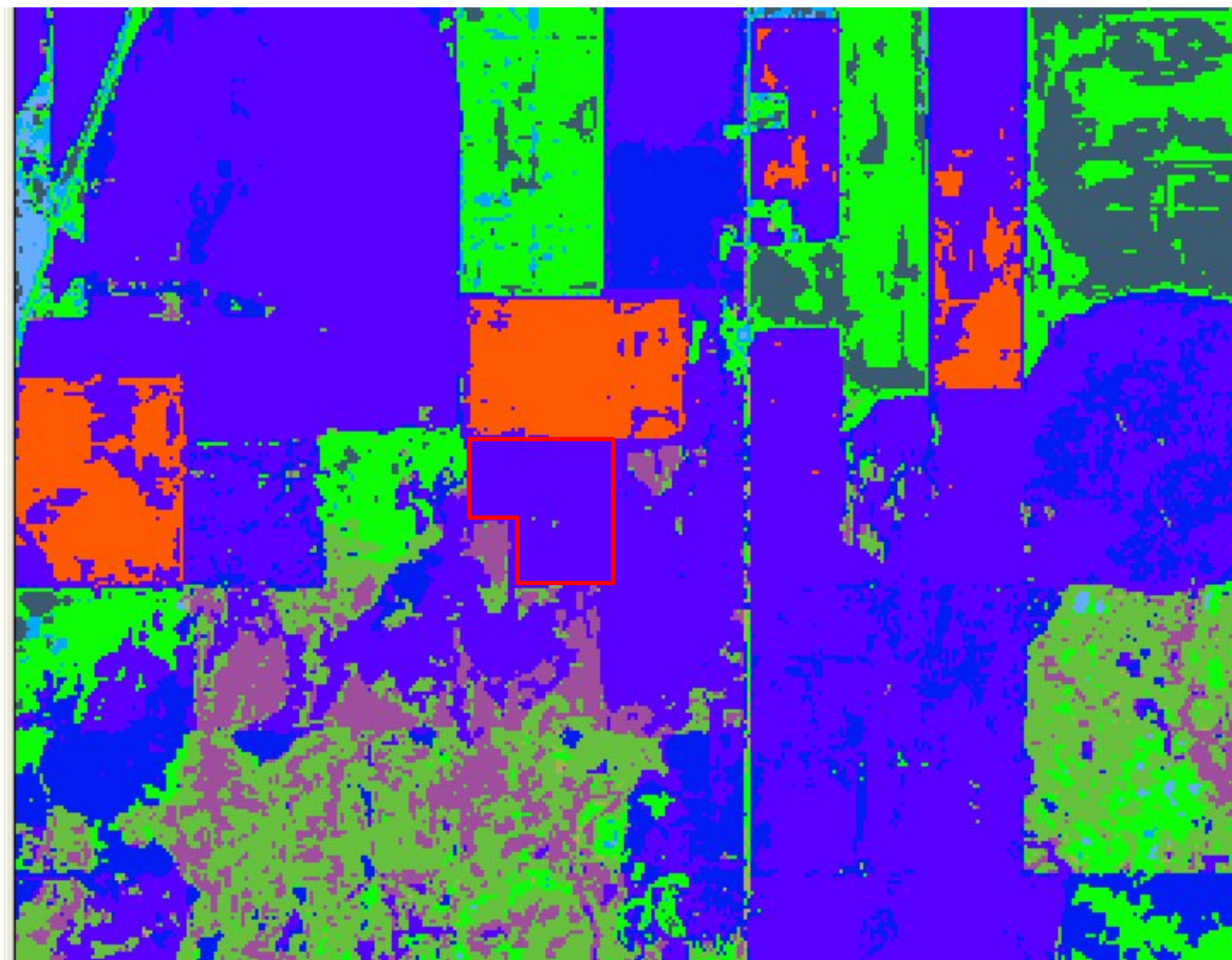


*Outline Drawn For Reference

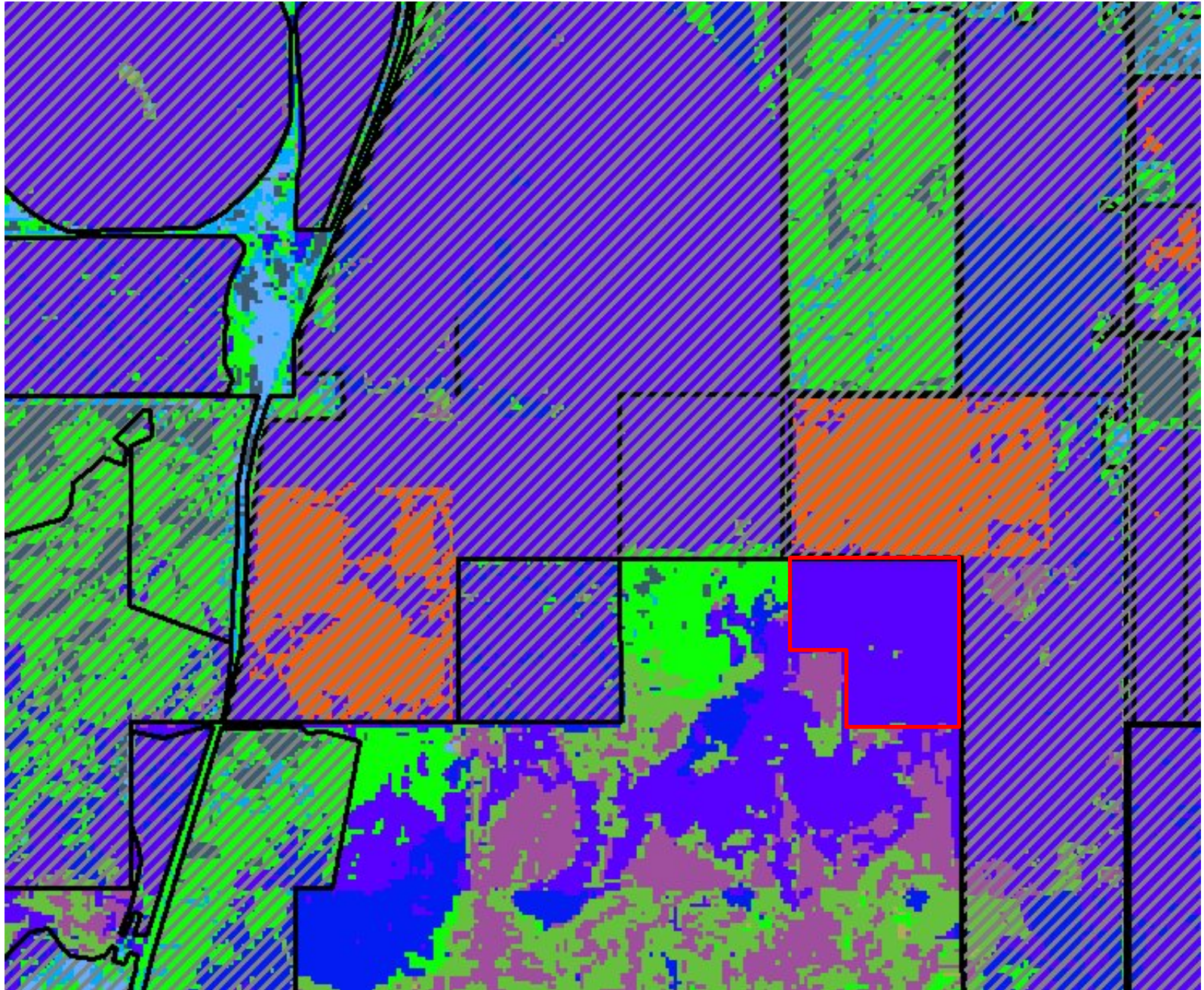
Training NIR Imagery to Identify Irrigated Areas



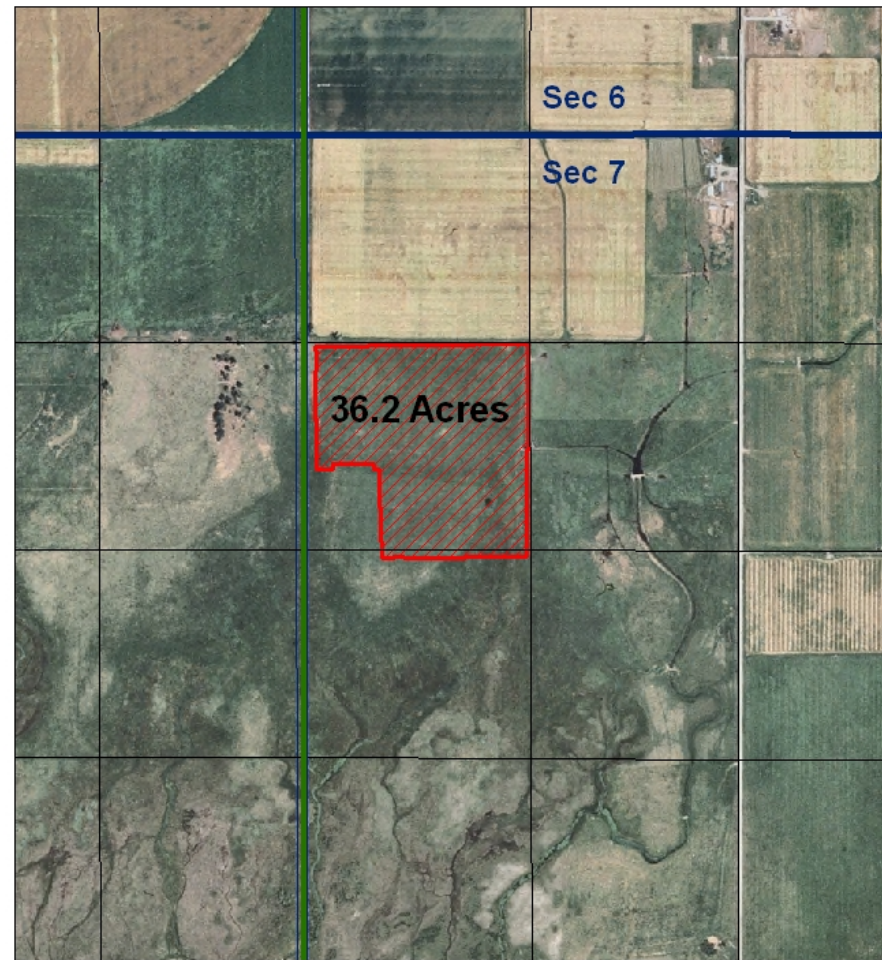
Trained (Processed) SPOT 2007 Image



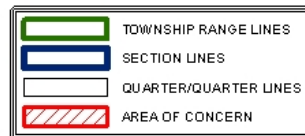
Combine Digital Water Right Layers and Trained Image:



Irrigated Area of Concern for W L Sherbine



Irrigated Area of Concern for W L Sherbine
TWP 01S, RNG 19E, SEC 7, SWNW & NWSW
Created January 24, 2007 from 2007 SPOT Satellite Imagery
2006 NAIP Aerial Photo Shown For Reference



Generate potential violation map
Gather further information and
perform a more detailed analysis
on the parcel

